

FILED

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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

KATHLEEN D. BOLLINGER,

Plaintiff - Appellant,

v.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant - Appellee.

No. 04-35678

D.C. No. CV-03-05343-RBL

MEMORANDUM *

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Argued and Submitted April 4, 2006
Seattle, Washington

Before: CANBY, GOULD, and BEA, Circuit Judges.

Kathleen Bollinger appeals the district court's decision affirming the Social Security Commissioner's ruling that she is not entitled to Supplemental Security Income ("SSI") disability benefits. We have jurisdiction under 28 U.S.C. § 1291,

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

and we affirm.

Substantial evidence supports the Commissioner's decision that Bollinger is not disabled because she can perform a significant number of jobs in the national economy. *See Magallanes v. Bowen*, 881 F.2d 747, 750 (9th Cir. 1989) (stating that this Court will overturn the Commissioner's decision "only if it is not supported by substantial evidence or it is based on legal error") (internal quotation marks and citation omitted). The Administrative Law Judge ("ALJ") properly relied on a vocational expert's testimony to find that Bollinger had the residual functional capacity to perform a significant number of jobs in the national economy. The ALJ's hypothetical question to the vocational expert accurately detailed the six severe impairments that the record supported. *See Tackett v. Apfel*, 180 F.3d 1094, 1101 (9th Cir. 1999) (stating that the ALJ's hypothetical "must be accurate, detailed, and supported by the medical record"). The vocational expert testified that Bollinger could work as a food and beverage cashier or order clerk in the hotel industry and as an appointment clerk. There are 260,000 of these jobs nationwide, and 6,500 in the State of Washington. None of Bollinger's doctors stated that her impairments prevented her from doing sedentary work.¹ All of her

¹ Although one of Bollinger's psychologists, Dr. Brown, found that Bollinger's physical impairments precluded sedentary work, the ALJ properly discounted this opinion because it conflicted with all of the other medical

psychological examinations revealed only moderate limitations on Bollinger's ability to function.²

There is no reversible legal error in the Commissioner's decision. *See Magallanes*, 881 F.2d at 750. The ALJ thoroughly explained how he weighed the medical evidence and witness testimony. He made specific findings explaining why he excluded some of Bollinger's complaints from the hypothetical question he posed to the vocational expert. *See Light v. Soc. Sec. Admin.*, 119 F.3d 789, 793 (9th Cir. 1997) (requiring an ALJ to make "specific findings explaining his rationale for disbelieving any of the claimant's subjective complaints not included in the hypothetical" posed to the vocational expert.) The ALJ's finding that Bollinger retained the functional capacity for sedentary work³ was consistent with his finding that she could perform the appointment clerk position.⁴

evidence, and because Dr. Brown's opinion regarding Bollinger's physical limitations was beyond her professional expertise as a Ph. D. psychologist.

² All of her doctors assigned her a 55-60 Global Assessment of Functioning, a score that reflects moderate limitations.

³ The ALJ found that Bollinger could stand or walk for ten to fifteen minutes and could follow simple instructions

⁴ A person with Bollinger's residual functional capacity would generally not have the specific vocational preparation needed to be an appointment clerk because an appointment clerk is a semi-skilled position. *See Dictionary of Occupational Titles* 237.367-010. The ALJ recognized this potential

(continued...)

The judgment of the district court is **AFFIRMED**.

⁴(...continued)

inconsistency in the vocational expert's testimony and questioned her about it. The vocational expert explained that Bollinger had the basic skills needed to be an appointment clerk even though that position required a higher specific vocational preparation than the positions of hotel cashier or order clerk.